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SUBJECT: BRAZIL: INTERMINISTERIAL BATTLES LEAVE NEEDED REFORM OF FOREST REGIME STALLED

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**¶11.** (SBU) SUMMARY. A divided Brazilian cabinet was unable to resolve its differences in order to make urgently needed reforms of the Forest Code. First, Agriculture Minister Reinholt Stephanies and Environment Minister Carlos Minc could not agree on a common approach for legislation to replace the current provisional measure on Amazon forest conservation. Stephanies pressed for allowing up to 50% per lot of land in the Amazon region to be cleared of its native vegetation, while Minc insisted that no more than 20 percent could be cleared. In a related matter, Strategic Planning Minister Roberto Mangabeira Unger and Defense Minister Nelson Jobim could not overcome opposition from Agrarian Reform Minister Guilherme Cassel and Environment Minister Minc to persuade President Luiz Inacio Lula da Silva to transfer responsibility for Amazon land title registry to a new entity and away from Minister Cassel's National Institute for Land Settlement Agency (INCRA). Lula, however, did require Cassel to move the land title registry responsibility to a new unit within his ministry and away from INCRA. These unresolved conflicts mean that badly needed reforms - vital to addressing the serious problem of deforestation - will be delayed even longer. END SUMMARY.

#### THE FOREST CODE AND THE RESERVE REQUIREMENT

**¶12.** (SBU) In accordance with Brazilian Federal Law 4771 created in 1965, also known as the Forest Code, rural properties in the Amazon Region must maintain 50% of the native forest (called the reserva legal or the legal reserve) on the property standing. The Amazon Region (also called Amazonia Legal or Legal Amazon) covers approximately five million square kilometers or 60% of Brazil's territory, which includes nine states and roughly four million square kilometers contained forests. In 2001, an 80% legal reserve limit was created through a provisional measure decreed by the President, but never enacted into law. Ever since there has been heated debates over establishing, by legislation, a legal reserve requirement. Influential rural politicians strongly oppose an 80% limit, wanting legislation to clarify that the requirement is 50%. (NOTE. Few farmers in the Amazon region comply with the very high bar of 80% conservation. END NOTE.) At the same time, the environmental community seems wedded to an 80% reserve requirement, though they lack the votes to have this enacted by Congress.

**¶13.** (SBU) In October 2008, the Government of Brazil created a Working Group so that both sides could discuss draft legislation to resolve the reserve requirement. The Group was composed of Environment Minister Minc and Agriculture Minister Stephanies, along

with Agrarian Reform Minister Cassel, other government and non-government organization representatives. Stephanes and Cassel pressed for more flexible legislation. They would like the legal reserve requirement for the Amazon region to be set at 50%, and also support amnesty for agriculture producers who illegally occupied land or illegally cleared forests in protected areas prior to July 12007.

#### ENVIRONMENTALISTS SAY NO

¶4. (SBU) The Working Group met a total of three times in order to try to reach a consensus. The first meeting took place in November, 2008 when Minc, expectedly, said: "The Forest Code is over forty years old and needs changes. Today is a historical day where both the agriculture and environment representatives talk and try to reach an agreement."

¶5. (SBU) Unfortunately, Minc's optimism did not last very long. In another meeting in December, Agriculture Minister Stephanes explained his proposals. NGO representatives decided not to negotiate under such terms and left the Working Group. After a month without any talks or progress, Stephanes decided to terminate the working group. Paulo Adario, Director of Amazon Project for Greenpeace in Brazil, said that NGOs are not against changes in the Forest Code, as long as the changes take into consideration the biodiversity and the effects climate change have on agriculture.

¶6. (SBU) Minc responded to Stephanes' decision by saying that he had no power to terminate the group and that he believed that good common sense would restore the negotiations. The final act of this dispute was Stephanes responding to Minc: "There is a big difference between a technical discussion and a passionate one and the Ministry of Agriculture has the country's best technical staff in its Agricultural Research Corporation (Embrapa)." "The way the Code is being proposed [to be amended by Minc], one million small producers

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would no longer produce," Stephanes warned. Senator Katia Abreu, who is also the head the Brazilian Farm Bureau (CNA), echoed Stephanes' arguments by declaring that the 80% limit was set not based upon any scientific analysis. "The rules are cannibalistic and were set through some kind of magic number and Brazil is the only country where there is no compensation for the farmer not to use part of the land he owns."

¶7. (SBU) COMMENT. As a result of this impasse between the agriculture lobby and the environmental lobby, the status of the Forest Code remains in the air and many farmers in the Amazon region could be subject to charges of operating illegally. There is widespread agreement that a long-term solution to the massive deforestation problem requires regularizing legal title and the status of the millions of farmers in the region. The uncompromising stances of the interested lobbies mean that this doesn't look likely to happen soon. END COMMENT.

#### DISPUTE OVER LAND TITLE REGISTRY

¶8. (SBU) While the environmental camp stopped efforts to reform the Forest Code, the agriculture camp successfully blocked efforts to reduce its role in land title registry. Recently, President Lula decided that land licensing and settlement disputes in the Amazon will continue to be handled by the Agrarian Reform Ministry led by Minister Cassel. Strategic Planning Minister Mangabeira Unger and Defense Minister Jobim wanted to create a new agency to handle land titles in the Amazon, stripping Cassel of his role. President Lula sided with Cassel, though he did dictate that a new unit be created within the Ministry to be held responsible for all the land settlement issues in the Amazon region. The Ministry's National Institute for Land Settlement Agency (INCRA) is no longer responsible for the region.

¶9. (SBU) COMMENT: Land titles in the Amazon are murky. Cassel's Ministry and INCRA have brought in hundreds of thousands of settlers to the Amazon, yet in most cases have failed to provide clear title. Virtually everyone within and outside the government agrees that a critical first step to controlling deforestation is determining who

has title to the land. INCRA has done a poor job in this respect. One can only hope that transfer of this titling responsibility within the Agrarian Reform Ministry will make a positive difference.

While there may not have been a need for a new entity as envisioned by Minister Unger and Minister Jobim, it is clear that a concerted effort to clean up the land ownership questions is urgently needed. The setbacks with the reform of the Forest Code and resolving responsibility for land title registry make for an inauspicious beginning to 2009 for Amazon forest conservation. END COMMENT

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